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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,927	07/25/2003	Masataka Tsutsumi	SIZE-F-REG	5409
24120	7590	03/07/2006	EXAMINER	
DAVID P DURESKA BUCKINGHAM DOOLITTLE & BURROUGHS, LLP 4518 FULTON DRIVE, NW P O BOX 35548 CANTON, OH 44735-5548			KOHNER, MATTHEW J	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/626,927	TSUTSUMI, MASATAKA	
	Examiner	Art Unit	
	Matthew J. Kohner	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant has cancelled claims 1-9. This overcomes the drawing objections, the 112 rejections and the 103 rejections of the previous office action. Currently claims 10-20 are pending.

Allowable Subject Matter

The indicated allowability of claims 10-15 is withdrawn upon further consideration of US Patent No. 4,234,416 to Lower. Rejections based on the reference follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,234,416 to Lower et al. (*hereinafter* "Lower") in view of US Patent No. 3,819,050 to Lower (*hereinafter* "Lower '050").

Lower discloses an apparatus for the sizing and separating of particles, comprising:

a base (17);

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a frame (15) mounted on the base by suspension means (16);

a motor assembly (col. 3, lines 50-52) attached to the frame for vibrating the apparatus;

at least two screens (e.g. 30, 31) mounted on the frame;

a spreader tray (bottom of each of chutes 69c/h, together, comprise a spreader tray as does 69b/g comprise a spreader tray at a different level), wherein each spreader tray is mounted on the frame above each respective screen (see Fig. 2 where the trays are above the respective screen);

at least two opposing inlet ports (70 c/h [for tray 69c/h] and 70 b/g [for tray 69b/g]) for each spreader tray disposed proximate to each respective spreader tray;

means for delivering particles (27) to the inlet ports;

a pan (47) for each screen mounted on the frame and disposed under each respective screen to receive particles that pass through the screens; and

an outlet (37).

Lower does not specifically disclose a hopper disposed beneath the screens to receive particles that pass over the screens. Lower '050 discloses that various silos or collection bins as connected to the outlets (col. 3, lines 35-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lower to include a hopper, as taught by Lower '050, since a hopper would prevent the outlet particles from spilling to the ground.

In regard to claim 12, see Fig. 2.

In regard to claim 13, see Fig 2.

In regard to claim 14, see Fig. 2 (examiner notes that the screens are inclined downward, however this still meets the claim language of "about zero degrees relative to the horizontal).

In regard to claim 15, see Fig. 2.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lower in view of Lower '050 as applied to claim 10 above, and further in view of US Patent No. 2,191,923 to Cecka (*hereinafter* "Cecka").

In regard to claim 11, Lower discloses guide 42 which allow the individual screens to slide in and out of the frame. Lower does not teach a screen box within the frame. Cecka teaches different forms of housings including an outer shell or box (page 4, lines 75). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lower to include a screen box for holding the screens, as taught by Cecka, so that all the screens could be removed and replaced at once instead of individually.

Allowable Subject Matter

Claims 16-20 remain allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kohner whose telephone number is 571-272-6939. The examiner can normally be reached on Mon-Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matthew J. Kohner
Examiner
Art Unit 3653

mjk



**KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600**